

Repealed 5/12/2015

31A-37-205 Free surplus.

- (1)
 - (a) Except as provided in Subsection (2), the commissioner may not issue a certificate of authority to a captive insurance company unless the company possesses and maintains free surplus of:
 - (i) in the case of a pure captive insurance company, not less than \$150,000;
 - (ii) in the case of an association captive insurance company incorporated as a stock insurer, not less than \$350,000;
 - (iii) in the case of an industrial insured captive insurance company incorporated as a stock insurer, not less than \$300,000;
 - (iv) in the case of an association captive insurance company incorporated as a mutual insurer, not less than \$750,000;
 - (v) in the case of an industrial insured captive insurance company incorporated as a mutual insurer, not less than \$500,000;
 - (vi) in the case of a sponsored captive insurance company, not less than \$500,000; and
 - (vii) in the case of a special purpose captive insurance company, an amount determined by the commissioner after giving due consideration to the company's business plan, feasibility study, and pro-formas, including the nature of the risks to be insured.
 - (b) The surplus required under this Subsection (1) may be in the form of:
 - (i) cash; or
 - (ii) an irrevocable letter of credit issued by:
 - (A) a bank chartered by this state; or
 - (B) a member bank of the Federal Reserve System that is approved by the commissioner.
- (2) Notwithstanding the requirements of Subsection (1), a captive insurance company organized as a reciprocal insurer under this chapter may not be issued a certificate of authority unless the captive insurance company possesses and maintains free surplus of \$1,000,000.
- (3)
 - (a) The commissioner may prescribe additional surplus based upon the type, volume, and nature of insurance business transacted.
 - (b) The capital required under this Subsection (3) may be in the form of an irrevocable letter of credit issued by:
 - (i) a bank chartered by this state; or
 - (ii) a member bank of the Federal Reserve System.
- (4)
 - (a) Without the prior approval of the commissioner, a captive insurance company may not pay:
 - (i) a dividend out of capital or surplus in excess of the limits under Section 16-10a-640; or
 - (ii) a distribution with respect to capital or surplus in excess of the limits under Section 16-10a-640.
 - (b) The commissioner shall condition approval of an ongoing plan for the payment of dividends or other distribution on the retention, at the time of each payment, of capital or surplus in excess of amounts:
 - (i) specified by the commissioner; or
 - (ii) determined in accordance with formulas approved by the commissioner.